

**REMARKS**

Please reconsider this application in view of the above amendments and the following remarks.

- Claims 1-30 are pending.
- Claims 17-30 are withdrawn
- Claims 1-16 are rejected.

In the response to the Office Action (January 14, 2004), Applicant stated, on the record, Applicant's preferred definition for "implanted" consistent with the specification as filed. In response, the Examiner stated her preferred definition for "implanted". Please note that the Applicant may be his or her own lexicographer. This means that the Applicant is free to select any meaning for any word so long as the meaning is not repugnant to art-accepted usage. The Applicant is not bound by the Examiner's considered definition.

In point of fact, Examiner has asserted a definition for "implanted" with no evidence that such a definition would be understood by one of ordinary skill in the art. Mere Examiner's argument is insufficient to establish an art-recognized definition. Of course, the Examiner may take official notice of facts outside of the record, as here for the definition of implanted, under certain circumstances. MPEP § 2144.03 states that "the rationale for supporting an obviousness rejection may be based on common knowledge in the art or 'well-known' prior art" and the "examiner may take official notice of facts outside of the record which are *capable of instant and unquestionable demonstration* as being 'well-known' in the art." If an applicant traverses such an assertion, the Examiner is required to cite a reference in support of her position. Applicant traverses that assertion and asks for such a reference—that is, a reference supporting the Examiner's definition of implanted as meaning: inserted, injected, deposited, and embedded.

Merriam-Webster's On Line dictionary defines inserted, injected, deposited, and embedded as shown below. While there is some unity of meaning between inserted, in-

jected, and embedded, Applicant cannot reconcile the definitions of inserted, injected, and embedded with deposited exactly the reconciliation necessary to support prima facie obviousness.

|        |   |
|--------|---|
| insert | 1 : to put or thrust in <insert the key in the lock> <insert a spacecraft into orbit> |
|        | 2 : to put or introduce into the body of something:                                   |
|        | 3 : to set in and make fast; especially: to insert by sewing between two cut edges    |
|        | 4 : to place into action (as in a game) <insert a new pitcher>                        |

|        |   |
|--------|---|
| inject | 1 a : to introduce into something forcefully <inject fuel into an engine> |
|        | b : to force a fluid into (as for medical purposes)                       |

|       |  |
|-------|--|
| embed | 1 a : to enclose closely in or as if in a matrix <fossils <i>embedded</i> in stone>                                |
|       | b : to make something an integral part of <the prejudices <i>embedded</i> in our language>                         |
|       | c : to prepare (a microscopy specimen) for sectioning by infiltrating with and enclosing in a supporting substance |

|         |                               |
|---------|-------------------------------|
| deposit | 2 a : to lay down             |
|         | b : to let fall (as sediment) |

To reiterate, please provide documentary evidence that one of ordinary skill in the art would in all cases equate deposited with implanted, as Applicant has defined the term. Otherwise, please remove this rejection of the claims.

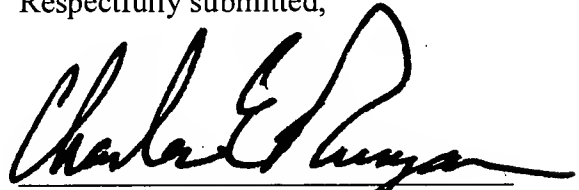
With respect to withdrawn process claims 17-30, Applicant requests that these process claims be rejoined in accordance with the Guidelines on Treatment of Product and Process Claims issued by the Commissioner to personnel of the Patent and Trademark Office. <http://www.uspto.gov/web/offices/com/sol/og/con/files/cons104.htm>.

Claims 17-30 are in essence process claims for making the products of claims 1-16 and are commensurate in scope with those claims. Therefore, since Claims 1-16 are allowable, please rejoin and examine process Claims 17-30.

Finally, Applicant will be providing corrected drawing under separate cover. Please hold the objection to the drawings in abeyance until allowable subject matter is identified.

Since all claims are in a condition for allowance, please issue a Notice of Allowability so stating. If I can be of any help, please contact me.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Charles E. Runyan", written over a horizontal line.

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